



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2011-0866; FRL-9723-3]**

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Preconstruction Requirements-Prevention of Significant Deterioration and Nonattainment New Source Review; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects errors in the final rule document published on August 2, 2012 announcing EPA's final approval of several revisions to the Maryland State Implementation Plan (SIP) pertaining to preconstruction requirements under the Prevention of Significant Deterioration (PSD) and nonattainment New Source Review (NSR) programs. The correction of these errors neither changes EPA's final action to approve these regulations nor the September 4, 2012 effective date of that final approval.

**EFFECTIVE DATE:** September 4, 2012.

**FOR FURTHER INFORMATION CONTACT:** David Talley, (215) 814-2117 or by e-mail at [talley.david@epa.gov](mailto:talley.david@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 2, 2012 (77 FR 45949), EPA published a final rulemaking action announcing its approval of revisions to the Maryland SIP pertaining to preconstruction requirements under the PSD and nonattainment NSR programs. In this

document, a reference on page 45953 to the approval of Maryland's October 24, 2007 SIP revision submittal was inadvertently omitted. The document also inadvertently provided an incorrect state effective date on page 45954 regarding the addition of an entry to paragraph 52.1070(c) for COMAR 26.11.01.01. Finally, the document inadvertently neglected to remove 40 CFR 52.1073(h) containing the Federally-promulgated "Narrowing Rule" for greenhouse gas (GHG) emissions. In its March 19, 2012 notice of proposed rulemaking (77 FR 15985, 15989), EPA stated, "With the regulations submitted in the proposed SIP revision, Maryland has adopted EPA's tailoring approach." In view of its August 2, 2012 final approval of Maryland's SIP revision, EPA has determined that section 52.1073(h) is redundant and should have been removed from the CFR. EPA is correcting that oversight with this corrective action.

In rule document 2012-18656, published in the Federal Register on August 2, 2012 (77 FR 45949):

1. On page 45952, in the first column, the first sentence under **"IV. Final Action"** is revised to read, "EPA is approving MDE's October 24, 2007, July 31, 2009 and June 23, 2011 SIP submittals as a revision to the Maryland SIP."

**§ 52.1070 [Corrected]**

2. On page 45953, the State effective date in the third column of the table in § 52.1070(c) for the entry "26.11.01.01" (Definitions) is revised to read "5/16/11." All other amendments to this paragraph remain unchanged.

**§ 52.1073 [Corrected]**

3. On page 45954, an amendatory instruction is added to the end of the document to read, "3. In § 52.1073, paragraph (h) is removed."

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because it merely corrects an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

#### **Statutory and Executive Order Reviews:**

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). Because the agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 et seq), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the

distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). The Congressional Review Act (5 U.S.C. 801 et seq.), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency

makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of August 13, 2012. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. This action to correct the document preamble, to correct the revision to § 52.1070(c), and to remove § 52.1073(h) is not a “major rule” as defined by 5 U.S.C. 804(2).

Dated: August 17, 2012

W. C. Early,  
Acting Regional Administrator,  
EPA Region III.

08/29/2012 at 8:45 am; Publication Date: 08/30/2012]

[FR Doc. 2012-21345 Filed